

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

KENDRICKS D. BAILEY,

Plaintiff,

vs.

Case No. 3:20-cv-1259-J-34JRK

STAMCO SHIP MANAGEMENT CO., LTD.,
RAY CAR CARRIERS LTD., et al.,

Defendants.

ORDER

THIS CAUSE is before the Court sua sponte. Plaintiff Kendricks D. Bailey initiated this action against Stamco Ship Management Co., Ltd., Ray Car Carriers Ltd., NYK Line\North America\Inc. and NYK Group Americas Inc. in state court on September 10, 2020. See Complaint (Doc. 3). Defendants Stamco and Ray Car removed the action to this Court on November 5, 2020, invoking the Court's diversity jurisdiction pursuant to 28 U.S.C. § 1332. See Defendants Stamco Ship Management Co., Ltd. and Ray Car Carrier Ltd.'s Notice of Removal of Action (Doc. 1; Notice).¹ Upon review of the Notice, the Court found that it did not have sufficient information to determine whether it had diversity jurisdiction over this action and directed Stamco and Ray Car to provide the Court with additional information. See Order (Doc. 6), entered November 12, 2020. Stamco

¹ Bailey had not served the NYK Defendants at the time of removal. See Notice ¶ 8.

and Ray Car submitted the requested information on December 9, 2020, satisfying the Court's sua sponte jurisdictional inquiry. See Defendants Stamco Ship Management Co., Ltd. and Ray Car Carriers Ltd.'s Response to the Court's Order to Show Cause Dated December 3, 2020 (Doc. 8); Notice (Doc. 9). However, on January 8, 2021, Bailey filed an Amended Complaint (Doc. 11) dropping the NYK Defendants and naming Nippon Yuson Kaisha as a Defendant to this action. See Amended Complaint (Doc. 11).² Upon review of the Amended Complaint and the record in this case, the Court is unable to ascertain the citizenship of the new Defendant, Nippon Yuson Kaisha.³ Accordingly, to ensure the Court's continuing diversity jurisdiction over this action, the Court will direct the parties to confer and file a joint notice properly identifying the citizenship of Defendant Nippon Yuson Kaisha. Accordingly, it is

ORDERED:

² The Court notes that the Bailey appears to have filed the Amended Complaint outside the time permitted under Rule 15, Federal Rules of Civil Procedure (Rule(s)) for amending "as a matter of course." See Rule 15(a)(1); see also Defendants Stamco Ship Management Co., Ltd. and Ray Car Carriers Ltd.'s Answer to Plaintiff's Complaint (Doc. 4), filed on November 5, 2020. Nonetheless, absent a motion to strike, the Court will presume that Defendants consented to the amendment pursuant to Rule 15(a)(2).

³ In the Amended Complaint, Bailey identifies Nippon Yuson Kaisha as a "foreign corporation" See Amended Complaint ¶ 7. This allegation is insufficient to establish Nippon's citizenship for purposes of the Court's diversity jurisdiction. See Am. Motorists Ins. Co. v. Am. Employers' Ins. Co., 600 F.2d 15, 16 (5th Cir. 1979); see also Fid. & Guar. Life Ins. Co. v. Thomas, 559 F. App'x 803, 805 n.5 (11th Cir. 2014). "The federal diversity jurisdiction statute provides that 'a corporation shall be deemed to be a citizen of any State by which it has been incorporated and of the State where it has its principal place of business.'" Hertz Corp. v. Friend, 130 S.Ct 1181, 1185 (2010) (quoting 28 U.S.C. § 1332(c)(1)) (emphasis removed). Accordingly, the allegation that Nippon is a "foreign corporation" is insufficient to disclose Nippon's citizenship—indeed, it does not disclose where Nippon has been incorporated nor its principal place of business. See Hertz, 130 S.Ct at 1185.

The parties shall have up to and including **January 26, 2021**, to provide the Court with sufficient information so that it can determine whether it has diversity jurisdiction over this action.

DONE AND ORDERED in Jacksonville, Florida this 11th day of January, 2021.


MARCIA MORALES HOWARD
United States District Judge

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Copies to:

Counsel of Record